REMARKS

After entry of this amendment, claims 46-56 will be pending in this patent application. By this amendment, Applicants have amended claims 46 and 53 and have cancelled claim 57. No new matter has been added. Reconsideration and allowance of this patent application are respectfully requested in view of the above amendments and the following remarks.

Rejection Under 35 U.S.C. § 112

Claim 46 was rejected under 35 U.S.C. § 112, second paragraph. The Examiner asserts that the claim is "incomplete for omitting essential structural cooperative relationships of elements" and identifies the "cooperative relationships" as "the black matrix and the passivation layer and the pixel electrode." Applicants respectfully traverse the rejection.

First and foremost, Applicants respectfully submit that it is not clear precisely which structural relations the Examiner would have Applicants recite in the claims. The Examiner's wording is itself nebulous. Applicants are also unclear as to the Examiner's precise basis for insisting that the structural relationships are "essential." Applicants respectfully request that the Examiner point out a particular basis for making that assertion. In the absence of a clear statement as to what the Examiner believes the problem with claim 46 to be and a clear statement of the Examiner's reasons for making the rejection, Applicants respectfully submit that the rejection should be withdrawn.

As to claim 46, Applicants respectfully submit that the claim is definite. In general, Applicants have the right to claim what they regard as their invention, and to craft claims of varying scope, each of which focuses on a different aspect of that invention. The fact that claim

46 may not recite some features that are recited in other claims does not render it indefinite. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Rejections Under 35 U.S.C. § 103

Claims 46-49, 51, and 52 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Kim et al., U.S. Patent No. 6,100,954, in view of Zhang et al., U.S. Patent No. 6,222,595. Applicants respectfully traverse this rejection for at least the following reasons.

In making the rejection, the Examiner asserts that "Kim differs from the claimed invention because he does not explicitly disclose the limitation such as a spacer is disposed at a region where a black matrix overlaps the gate line or the data line." The Examiner looks to Zhang to disclose a spacer disposed "at a region wherein a black matrix overlaps the gate line or the data line."

Applicants note that neither phrase used by the Examiner reflects the precise language of claim 46. As amended, claim 46 recites "spacers formed at a region covered by the black matrix between the first insulating substrate and the second insulating substrate." Applicant respectfully submits that neither reference teaches or suggests such a feature. Zhang discloses that spacers are scattered randomly between the two substrates with a certain density, and shows a spacer disposed in the general region of the black matrix merely for ease of illustration. However, regardless of whether or not spacers may be coincidentally disposed in the region of the black matrix in Zhang, the reference does not disclose or suggest that they specifically be formed there.

Accordingly, because the cited combination of references does not disclose or suggest at least the features noted above, Applicants respectfully request that the rejection of claim 46, and the claims that depend from it, be withdrawn.

Claims 46-52 were rejected under 35 U.S.C. § 103(a) over what the Examiner characterizes as Applicants' Admitted Prior Art ("AAPA"). Applicants respectfully traverse the rejection for at least the following reasons.

In making the rejection, the Examiner admits that "[t]he AAPA described in the instant application differs from the claimed invention because it does not explicitly disclose the limitation such as the passivation layer with flat surface comprising organic insulating material with low dielectric constant." The Examiner then asserts that those features would have been obvious. To the extent that the Examiner appears to be taking official notice, Applicants respectfully request that the Examiner produce a reference to substantiate the assertions as to what would and would not have been obvious at the time the invention was made.

Additionally, the Examiner admits that the AAPA does not disclose spacers formed "on top of the black matrix" but asserts that "it would have been obvious to one of ordinary skill in the art that the spacers are provided on top of the black matrix since the black matrix (11) is one of the top most layer of the insulating substrate (1)." With respect to this assertion, Applicant notes the arguments made above with respect to the Kim and Zhang references; whether or not a spacer may be coincidentally disposed over a region covered by black matrix as a matter of chance, AAPA does not disclose or suggest that a spacer be specifically formed over the black matrix. Accordingly, Applicants submit that claims 46-52 are patentable over AAPA, and respectfully request that the rejection be withdrawn.

Claims 53-57 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Shimada et al., U.S. Patent No. 6,052,162. Applicants respectfully traverse this rejection for at least the following reasons.

As amended, independent claim 53 recites that "the passivation layer contacts a portion of the semiconductor layer between source and drain regions thereof." Applicants respectfully submit that Shimada does not disclose or suggest at least that feature. Instead, in Shimada, a "channel protection layer" (reference numeral 35) is formed between the source and drain regions of the semiconductor layer. The passivation layer is on top of the channel protection layer. Accordingly, Applicants respectfully submit that claims 53-56 are not obvious over Shimada, and respectfully request that the rejection be withdrawn.

Rejection Under the Doctrine of Obviousness-type Double Patenting

Claims 53-57 were rejected under the doctrine of obviousness-type double patenting over claims 41-49 of commonly-assigned U.S. Patent No. 6,597,415 (hereinafter "the '415 patent"). In support of the rejection, the Examiner asserts only that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims anticipate the instant claims." Applicants respectfully submit that the rejection is improper, and respectfully traverse it for at least the following reasons.

In general, Applicants respectfully submit that the Examiner has not performed the complete legal analysis required for an obviousness-type double patenting rejection and has, in fact, omitted parts of that required analysis. Specifically, the proper legal analysis for an obviousness-type double patenting rejection parallels the analysis used for a rejection under 35

U.S.C. § 103(a), but is restricted to the claims of the application and the claims of the patent. As stated in MPEP § 804(II)(B)(1), the steps of the analysis are as follows:

> (A) Determine the scope and content of a patent claim and the prior art relative to a claim in the application at issue;
> (B) Determine the differences between the scope and content of the patent claim and the prior art as determined in (A) and the claim in the application at issue;
> (C) Determine the level of ordinary skill in the pertinent art; and
> (D) Evaluate any objective indicia of nonobviousness.

The MPEP also states that "an obviousness-type double patenting rejection should make clear...the differences between the inventions defined by the conflicting claims."

In view of the above, Applicant respectfully submits that the Examiner's analysis is incomplete, insofar as it neglects the full comparison required by point (B). In particular, Applicants respectfully submit that whether or not the application claims are "anticipated" by the patent claims, the test applied by the Examiner is insufficient to support an obviousness-type double patenting rejection. By definition, because the rejection made is an obviousness-type double patenting rejection, there must be differences between the two sets of claims, and the Examiner is obligated to point out those differences, as the MPEP explains. Therefore, the rejection is improper and should be withdrawn.

However, for the sake of expediency, Applicants will address the merits of the rejection. To that end, Applicants note that claim 41 of the '415 patent, which is applied in the rejection, is a dependent claim which depends from and incorporates the features of independent claim 34. Claim 42 is independent, and claims 43-49 depend from claim 42.

Applicants submit that none of claims 41-49 includes or suggests the feature of claim 53 that "the passivation layer contacts a portion of the semiconductor layer between source and drain regions thereof," among other features. Accordingly, Applicants submit that even if the

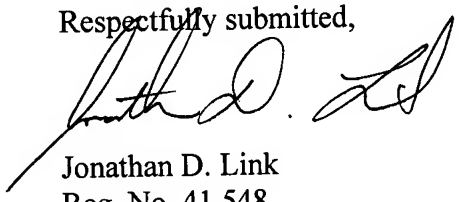
obviousness-type double patenting analysis was to be done correctly, claims 41-49 of the '415 patent would not render claims 53-57 of the present application obvious.

CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the claims are in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the telephone number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



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